IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Bail Appl..No. 6069 of 2007()

CRIME NO. 107/07 OF ENATHU POLICE STATION

PETITIONERS : ACCUSED 1 AND 2:

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1. SANJEEV KUMAR, SANJEEV BHAVAN,
KUNNIDA, CHELIKUZHI, EDADIMANGALAM VILLAGE.

2. CHANDRAMATHI SANTHAMMA,
SANJEEV BHAVAN, KUNNIDA,
CHELIKUZHI, EDADIMANGALAM VILLAGE.

BY ADV. SRI.D.KISHORE

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
POLICE STATION, ENATHU.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6069 of 2007

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Dated this the 9th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioners are husband and mother-in-law of the defacto complainant. The marriage took place on 1.6.2004. On 5.7.2004 the petitioner/husband had returned to his place of employment. He allegedly returned only on 19.7.2007. He demanded that the wife must resume cohabitation with him. It is in these circumstances that a complaint was filed before the police on 24.9.2007 alleging commission of offences punishable under Section 498A I.P.C. The petitioners, it is alleged, are guilty of matrimonial cruelty of a culpable variety against the defacto complainant. Crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The allegations raised are totally false. When the petitioner demanded to resume conjugal rights, the defacto complainant is inventing excuses. The petitioners do not deserve to suffer the undeserved trauma of arrest and incarceration

in prison. Subject to any appropriate conditions, anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Prosecutor does not oppose the application. I am satisfied in the facts and circumstances of the case that the stand taken by the learned Prosecutor is fair and reasonable. I take note of the reality that the arrest and incarceration of the petitioners is likely to mar all possibilities of reconciliation of marital relationship. I also take note of the fact that no physical injury has been suffered by the wife. I am satisfied that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 16.10.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 17.10.07 and 18.10.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 16.10.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to his surrender on 16.10.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 16.10.2007.

(R. BASANT)
Judge

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